



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 25, 1996

Ms. Eugenia A. Cano
City Attorney
City of Alvin
216 W. Sealy
Alvin, Texas 77511

OR96-2195

Dear Ms. Cano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102123.

The City of Alvin (the "city") received a request for "all bills and checks and invoices in reference to any legal conversation, court cost and letters . . . concerning any landfill items from Feb 1996 to Aug. 30, 1996 with and [sic] law firms of lawyers." You state that the city has provided the requestor with some of the requested information. However, you claim that the remainder of the requested information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the state is or may be a party. The city has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. The city must meet both prongs of this test for information to be excepted under section 552.103(a).

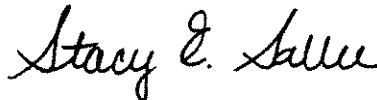
The city has submitted a petition filed against it, thereby establishing the first prong of the section 552.103(a) test. We have reviewed the submitted invoices and conclude that the following information on the invoices may be withheld under section 552.103(a): the descriptions of services performed, the amounts expended for attorney's fees, the breakdowns of attorney time spent on specific legal issues. The city may not withhold the remainder of the invoices under section 552.103(a).

We note that when the opposing party in the litigation has seen or had access to any of the information in these records, there is no justification for withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. *Id.* at 5. We have reviewed the remainder of the submitted invoices and conclude that the city may not withhold that information under section 552.107(1).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 102123

Enclosures: Submitted documents

cc: Mr. Lee Fregeau
Route 1, Box 371
Alvin, Texas 77511
(w/o enclosures)